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101ST CONGRESS *1st Session* | SENATE | REPORT 101-220

FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK EXPANSION ACT OF 1989

NOVEMBER 21 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 875]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 875) to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park near Fredericksburg, Virginia, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 2, line 25, strike "park." and insert in lieu thereof, "park, in accordance with the provisions of subsection 3(b).".

2. On page 3, lines 2 and 3, strike "subsection (a)" and insert in lieu thereof, "this section".

3. On page 3, line 6, strike "If any such lands" through the end of the sentence.

4. On page 3, line 17, strike all of subsection (b) and insert in lieu theeof:

> (b) CONVEYANCE OF LANDS EXCLUDED FROM PARK.—(1) The Secretary is authorized, in accordance with applicable existing law, to exchange Federal lands and interests excluded from the park pursuant to subsection 2(b) for the purpose of acquiring lands within the park boundary.
>
> (2) If any such Federal lands or interests are not exchanged within five years after the date of enactment of this Act, the Secretary may sell any or all such lands or interests to the highest bidder, in accordance with such

S313-45

regulations as the Secretary may prescribe, but any such conveyance shall be at not less than the fair market value of the land or interest, as determined by the Secretary.

(3) All Federal lands and interests sold or exchanged pursuant to this subsection shall be subject to such terms and conditions as will assure the use of the property in a manner which, in the judgment of the Secretary, will protect the battlefield setting. Notwithstanding any other provision of law, the net proceeds from any such sale or exchange shall be used, subject to appropriations, to acquire lands and interests within the park.

PURPOSE OF THE MEASURE

The purpose of H.R. 875, as ordered reported, is to expand the boundary of the Fredericksburg and Sportsylvania County Battlefields Memorial National Military Park in Virginia.

BACKGROUND AND NEED

Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park encompasses the sites of four key battles of the Civil War: Frederickburg, Chancellorsville, Wilderness, and Spotsylvania Court House. When the park was established in 1927, only the actual fighting lines and earthworks were acquired. The remainder of the battlefield areas was left in traditional agricultural use. In the past few years, increasing development has begun to threaten these historic lands.

H.R. 875 would add approximately 1,890 acres of threatened areas to the present battlefield boundary, enlarging the park to 7,790 acres. Included among the proposed sites to be added to the park are the Fall Hill National Historic Landmark and segments of the "Sunken Road," both within the Fredericksburg battlefield. In addition, within the Widlderness battlefield, the "Ellwood" site, the only remaining war-time building, is proposed for addition to the park.

The battle of Fredericksburg took place between December 11-13, 1862. The Union army, consisting of 110,000 men led by General Ambrose Burnside, crossed the Rappahannock River at Fredericksburg to attack 75,000 Confederate soldiers under the command of General Robert E. Lee. Although the Union army had more men, the Confederate army was firmly entrenched in higher ground and in protected positions by the time the battle began. The result was Lee's most one-sided victory of the war, with Union troops suffering over 13,000 casualties, as compared to only 5,000 Confederate casualties.

Following that loss, President Lincoln replaced Burnside with General Robert Hooker as Commander of the Army of the Potomac. The army's next encounter with Lee's Army of Northern Virginia occurred during the Battle of Chancellorsville from April 27 to May 6, 1863. This battle ranged over a wide area of the countryside, from Chancellorsville to Fredericksburg. The battle ended when Stonewall Jackson's troops flanked the right wind of the Union army and led a surprise attack. The result was another retreat by the Union army across the Rappahannock River. Although

the Confederate army won the battle, the victory was marred by the death of Jackson, who was mistakenly shot by his own troops.

The Wilderness battle, on May 5 and 6, 1864, marked the first encounter between Lee and General Ulysses Grant. After 2 days of fighting, both sides suffered heavy losses, with over 27,000 casualties. Although the battle was a draw, Grant did not retreat back across the Rappahannock, as earlier Union armies had done, but instead forged ahead toward the Spotsylvania Court House, 10 miles to the south. The battle marked the first time in the war that the Army of the Potomac stayed on the offensive after its initial battle.

The battle at Spotsylvania Court House was actually a series of battles in and around the area, between May 8–21, 1864. Both armies had raced from the Wilderness to the area, which controlled the shortest route to Richmond. After several preliminary advances by both sides, the two armies met for the most intense hand-to-hand combat of the war on April 12. Both armies suffered heavy casualties, with the Union losing 32,000 men and the Confederate army, a proportionally as damaging 18,000 men.

LEGISLATIVE HISTORY

H.R. 875, introduced by Congressman Slaughter, passed the House of Representatives by a voice vote on July 17, 1989. A companion measure, S. 1559, was introduced in the Senate on August 4, 1989 by Senators Warner, Bumpers and Robb. The Subcommittee held a hearing on H.R. 875 on October 24, 1989.

At the business meeting on November 15, 1989, the Senate Committee on Energy and Natural Resources ordered H.R. 875, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 15, 1989, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 875, if amended as described herein.

The roll call vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Wirth*	
Mr. Conrad	
Mr. Heflin	
Mr. Rockefeller*	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	

Mr. Nickles*
Mr. Burns
Mr. Garn*
Mr. McConnell

* Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of H.R. 875, the Committee adopted four amendments. Amendments 1, 2 and 3 are simply technical or clarifying amendments.

The fourth amendment adopted by the Committee authorizes the Secretary to exchange Federal lands and interests excluded from the park for the purpose of acquiring lands within the park. The amendment also states that for any Federal lands not exchanged within five years after the date of enactment of this Act, the Secretary may sell such lands to the highest bidder for not less than the fair market value of the property, and in accordance with such regulations as the Secretary may prescribe. Finally, the amendment provides that the net proceeds from any sale or exchange may be use, subject to appropriations, to acquire lands and interests within the park.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the "Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park Expansion Act of 1989".

Section 2 provides for the revision of the boundary of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park ("the park").

Subsection (a) states that the park boundary is modified to reflect the boundary as generally depicted on the eight National Park Service maps referenced in the subsection.

Subsection (b) excludes from the park those lands which are outside of the proposed park boundary, but within the existing park boundary. The subsection also authorizes the Secretary of the Interior ("the Secretary") to relinquish exclusive or concurrent jurisdiction over lands excluded from the park to the Commonwealth of Virginia.

Section 3 sets forth terms and conditions for acquisitions and conveyances of lands by the Secretary.

Subsection (a) provides that the Secretary may acquire lands and interests in lands within the park by donation, purchase with donated or appropriated funds, or by exchange.

Subsection (b) states that the Secretary is authorized, in accordance with applicable existing law, to exchange Federal lands and interests in lands excluded from the park for the purpose of acquiring lands within the park boundary.

Paragraph (2) provides that Federal lands or interests excluded from the park which are not exchanged within 5 years may be sold to the highest bidder, in accordance with such regulations as the Secretary may prescribe, for not less than the fair market value.

Paragraph (3) subjects all Federal lands or interests sold or conveyed pursuant to this subsection to such terms and conditions as

will assure the use of the property in a manner which will protect the battlefield setting. The paragraph also provides that the net proceeds from any sale or exchange may be used, subject to appropriations, to acquire lands and interests within the park.

Subsection (c) authorizes the Secretary to acquire alternative rights of access across non-park lands to exchange with owners of existing easements or rights of access across park lands. The subsection makes clear that nothing in this Act shall prohibit the Secretary from acquiring any outstanding easements or rights of access across Federal lands.

Subsection (d) authorizes the Secretary to accept donations of conservation easements on lands adjacent to the park for the purpose of protecting the scenic and historic resources on park lands and the adjacent lands, or preserving the undeveloped or historic appearance of the park when viewed from within or without the park.

Subsection (e) provides that no improved property within the area described in this section may be acquired without the consent of the owner unless the Secretary determines that the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the park.

Section 4 provides for retained use and occupancy rights by owners of improved property acquired pursuant to this Act.

Subsection (a) states that, with the exception of property determined by the Secretary to be necessary for development or public use, the owners of improved property may retain a right of use and occupancy for a term of 25 years or the death of the owner or the owner's spouse.

Subsection (b) provides that any rights retained pursuant to the Secretary shall be subject to such terms and conditions as the Secretary may prescribe. Such rights may be terminated by the Secretary if the improved property is being used for any purpose which is incompatible with the administration, protection, or public use of the park.

Subsection (c) defines the term "improved property" to be a year-round noncommercial single-family dwelling together with such land, in the same ownership as the dwelling, as the Secretary determines to be necessary for the enjoyment of the dwelling for single-family residential use.

Section 5 directs the Secretary to take such actions as are necessary to interpret the battles of Fredericksburg, Chancellorsville, Spotsylvania Courthouse and the Wilderness in the larger context of the Civil War and American History, including the causes and consequences of the Civil War, and the effects of the war on all the American people.

Section 6 authorizes to be appropriated such sums as may be necessary to carry out the purposes of this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 16, 1989.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 875, the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park Expansion Act of 1989, as ordered reported by the Senate Committee on Energy and Natural Resources, November 15, 1989. Enactment of this legislation would result in total costs to the federal government of about $10 million over a three-year period, assuming appropriation of the necessary funds.

H.R. 875 would establish the boundaries of the Fredericksburg-Spotsylvania National Military Park near Federicksburg, Virginia. The act would authorize the Secretary of the Interior to acquire lands and easements within the expanded boundaries of the park by purchase, exchange, or donation and would allow the Secretary to take necessary actions to interpret the park for visitors.

Based on information received from the staff of the National Park Service and assuming appropriation of the necessary sums, CBO estimates that the federal government would spend about $10 million over a three-year period to acquire new acreage and other interests within the park boundaries. We expect that additional operation and maintenance costs would not be significant.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 875. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 875, as reported.

EXECUTIVE COMMUNICATIONS

On October 12, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of Interior and the Office of Management and Budget setting forth executive views on S. 1559, an identical measure to H.R. 875. These reports had not been received at the time the report on H.R. 875 was filed. When the reports become available, the chairman will re-

quest that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF HERBERT S. CABLES, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on S. 1559. There is also pending before the Committee H.R. 875, an identical bill, which passed the House of Representatives on July 17.

We would support this legislation if amended as described below.

S. 1559 would provide that the Fredericksburg-Spotsylvania National Military Park in Virginia shall consist of the lands within the boundary depicted on seven maps on file with the National Park Service.

The boundary depicted on those maps would add to the existing administrative boundary 1,883.16 acres, of which 611.93 acres are already Federally owned, and it would exclude 107.17 acres of private land from the existing boundary.

The bill would authorize acquisition of the non-Federal lands added to the boundary and the sale or exchange of the Federal lands excluded from the boundary. It would also authorize the Secretary to acquire alternative access rights and exchange them for private rights of access that now exist across park lands. In addition, the bill would authorize the Secretary to accept conservation easements on adjacent lands.

The bill also contains provisions for retention of use and occupancy rights by owners of improved property which is acquired.

The countryside in and around Fredericksburg, Virginia, was the setting for four major battles of the Civil War in 1862, 1863 and 1864 resulting in more than 100,000 casulties. In 1924, the Congress created a commission to determine the feasibility of preserving the battlefields, and 3 years later Congress established the area described in the commission's report as a national military park in the Act of February 14, 1927. The 1927 Act authorized the acquisition of the battlefields described by the commission, together with such other historical points and land as the Secretary of War deemed necessary for monuments and roads and to carry out the general purposes of the Act. There was no legislated boundary and no limit on the amount of land that could be acquired in the 1927 Act.

In 1974 an administrative boundary was adopted by the National Park Service and agreed to by former Senator Alan Bible, then Chairman of the legislative and appropriations subcommittees of the Senate having jurisidction over park land acquisition. By adopting the administrative boundary, the Service undertook not to acquire any land outside that boundary without further authorizing legislation. S. 1559 constitutes such legislation.

S. 1559 would revise the administrative boundary in accordance with the recommendations of the general management plan for the park, which was completed in 1986. The bill would also make certain additions to the plan recommendations that we cannot support

at this time. We would support legislation to enact the recommendations of the general management plan.

Boundary changes would be made under S. 1559 in each of the seven units of the park as follows:

Fredericksburg Battlefield.—The bill would add 184.80 acres of Federal land and 59.71 acres of private land. The private land is needed to protect the historic scene from the tour road and provide safe access and parking for visitors at Chatham Manor, which was the Union headquarters during the battle. A total of 68.25 acres of private land will be deleted.

Sunken Road.—The bill would add 2.85 acres of private land along Wiliis street, where the heaviest fighting during the Battle of Fredericksburg occurred, and on Marye's Heights, in the heart of the Confederate defensive position.

Chancellorsville.—In addition to 76.89 acres of Federal land, the bill would add 784.79 acres of private land and delete 38.00 acres of private land. This addition would include the areas where "Stonewall" Jackson began his assault on the Union Army on May 2, 1863, and properties along Sickles Drive in the heart of the battlefield. About 417 acres will be acquired in fee and 367 acres will be acquired in easements.

Wilderness.—The bill would add 475.21 acres of private land and more than 287 acres of Federal land. Deletions would be 0.92 acre of private land. The Battle of the Wilderness, fought on May 5 and 6, 1864, marked the first engagement between Robert E. Lee and Ulysses S. Grant. Additions here are proposed along two historic road corridors to preserve the battle terrain and the view from the park tour road. About half of the private land added will be acquired in fee and half in scenic easements.

Lake Wilderness.—As part of our effort to protect the historic scene of the Battle of the Wilderness, 15.75 acres of private land would be added adjacent to the Lake Wilderness development.

Spotsylvania Court House Battlefield.—In addition to 62.27 acres of Federal land, the proposal would add 15.64 acres of private land along the Federal lines known since May 12, 1864, as the "Bloody Angle." This tract is also in immediate proximity of Grant Drive, the park tour road. Protection of the historic scene is the objective of this addition.

Jackson Shrine.—Here the bill would add 1.5 acres comprising two private undeveloped rights-of-way near the restored cottage where "Stonewall" Jackson died on May 10, 1863.

Mr. Chairman, there were estimated almost half a million recreation visits to this park in 1988. The Surrounding area is rapidly being developed. Protection of the battlefields will not be feasible if developments are permitted to spread over historic ground and mark the historic scene from within the park. We intend to seek donations of easements on key tracts outside the boundary that must be kept undeveloped to protect the historic scene.

We estimate that the cost of purchasing the 762.21 acres of private land in fee and 593.24 acres in scenic easements will be approximately $10 million.

The major difference between the boundary recommended in the 1986 general management plan and that proposed in this legislation are: First, the 1986 plan proposed the disposal of 422 acres of

Federally owned land, whereas this bill would keep all Federally owned land within the boundary; second, this bill would authorized acquisition of an additional 456.45 acres of private land, most of it at Chancellorsville. The effect of retaining the Federal lands is to make unnecessary the language in sections 2(b) and 3(b) that referes to Federal lands excluded from the Park. The effect of the additional private land is to include additional resources and to add about $2 million to the original land cost estimate.

The park employes 40 permanent full time employees. We do not expect that this proposal will entail additional National Park Service personnel, and we will seek to develop a very thorough volunteer program to insure that costs are kept as low as possible if S. 1559 is amended and enacted as we suggest.

This concludes my prepared remarks, mr. Chairman. I will be pleased to respond to any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 875, as reported.

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